

IN THE MATTER OF
THE PETITION OF
MICHAEL WEIR, SR.
for A Special Hearing
to Confirm a
Non-Conforming Use

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No.: 91-349 SPH

PROTESTANT'S MEMORANDUM

The Applicant in this case acquired the property in question in 1952. Since that time he and his family have been using the property as their residence as well as a contractor's storage facility. The applicant has run his own business as a masonry contractor for many years. He stores equipment and left over materials on his residence property. Access to his site is over a private road which he owns in fee simple subject to an easement for the use of others entitled thereto. In recent years much of the stored equipment and materials has been located in the unpaved portion of this road and along the property line of the Protestant, Carl Snell.

At the hearing on this matter, no evidence was presented by the Applicant as to the present or past zoning of the property of the Applicant or of the Regulations which govern the use of the property. Applicant is seeking confirmation of a non-conforming use for the property in order to allow the Applicant to continue to use the property as a contractor's storage yard in a residential zone. The Zoning Regulations of Baltimore County which became effective on January 2, 1945 ("1945 Regulations") provide for four (4)

residential zones one (1) commercial zone and two (2) industrial zones. Section XIII(A) of the 1945 Regulations allows a contractor's storage yard only by special exception in any residential zone. In the instant case there is no evidence that the Applicant ever obtained any zoning authority approval for his use of the property as a contractor's storage yard. Accordingly, when the property began to be used in that way, it constituted an illegal use and cannot now be made non-conforming since that use was not legal at the time it began nor predated the 1945 Regulations which governed at that time.

Under these circumstances the relief requested by the Applicant should be denied and the use as a contractor's storage yard should be discontinued.

WILLIAM M. HESSON, JR.

NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of May, 1991, a copy of the foregoing Protestant's Memorandum was mailed postage prepaid to Mary Gephardt, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221.

WILLIAM M. HESSON, JR.

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IN THE MATTER OF
611 Weir Lane and
613 Weir Lane
15th Election District
5th Councilmanic District
Michael H. Weir, Sr., et ux,
Michael H. Weir, Jr., et ux,
Appellants

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case Nos. 91-349-SPH
and 91-350-SPH

STIPULATION AS TO FACTS AND ORDER

These cases having come before the Board of Appeals on the 4th day of February, 1992, from an order dated June 5, 1991 by J. Robert Haines, Zoning Commissioner for Baltimore County, denying approval of a nonconforming residential and commercial use of the properties known as 611 Weir Lane and 613 Weir Lane, Baltimore County, Maryland. The above cases are companion cases and were heard simultaneously.

The Appellants appeared before the Board represented by their attorney, Mary E. Gephardt. Also appearing and testifying on behalf of the Appellants were Harland Southwick, Michael H. Weir, Jr., Mark Weir, Alexander B. Page, Jr. and William Bafitis, a Professional Engineer.

Appearing and testifying as Protestants, were Carl D. Snell and Terry Snell. Joy E. Snell appeared as a Protestant.

Testimony indicated that the subject properties, known as 611 Weir Lane consist of 1.3220 acres, more or less, and 613 Weir Lane consists of .55 acres, more or less, both are zoned D.R. 5.5 and improved by a single family dwellings, all as shown on Appellant's Exhibits 1 and 2. The areas for

which Appellants are requesting nonconforming residential and commercial use status for the operation of a masonry contracting business is designated on Appellant's Exhibit No. 1, consisting of an area 10' x 200', at the end of a stone drive, adjacent to the land owned by Carl D. Snell and on Exhibit No. 2, consisting of an area 10' x 80', to the rear of the dwelling located at 613 Weir Lane, adjacent to the property owned by Susan Adams. Said properties are located within the Chesapeake Bay Critical Area.

Testimony presented by Harland Southwick, Alexander B. Page, Jr., Michael H. Weir, Sr., Michael H. Weir, Jr., and Mark Weir established the subject properties have enjoyed a nonconforming use prior to the effective date of the zoning regulations, namely, January 2, 1945. Further, Appellant's Exhibit 8A and 8B, setting forth findings and recommendations of the Department of Environmental Protection and Resource Management were introduced.

In consideration of the mutual promises and covenants, the Appellants and Protestants, his, her or their successors and assigns, agree as follows:

a. The Protestants will withdraw their opposition to Appellant's request for approval of a nonconforming residential and commercial use for the operation of the masonry contracting business for those areas designated as a 10' by 200' strip located in the front of 611 and 613 Weir Lane and a 10' x 80' strip to the rear of 613 Weir Lane and

running along the property line of 613 Weir Lane, adjacent to the property owned by Susan Adams, both located in Baltimore County, Maryland, and labeled as "Exception Area" on Appellant's Exhibit Nos. 1 and 2.

b. The Appellant and Protestants agree the dividing line between the properties owned by the Appellant, Michael H. Weir, Sr. and wife, known as 611 Weir Lane, Baltimore County, Maryland and the Protestant, Carl D. Snell, known as 1709 Cape May Road, shall be that line as established by Scott Dallas, Registered Land Surveyor, as staked on February 4, 1992.

c. That the Findings and Recommendations made by J. James Dieter, Director of the Department of Environmental Protection and Resource Management dated April 30, 1991 shall be incorporated into this Stipulation As to Facts and Order and shall be binding on the property.

d. The Appellants, within six months from February 4, 1992, shall erect a privacy fence to screen the areas to be used for the storage of equipment, materials and supplies and to prevent disturbance of the existing trees, all as recommended by the Department of Environmental Protection and Resource Management, Exhibit Nos. 8A and 8B, and designated as the "Exception Area" on Appellant's Exhibit Nos. 1 and 2.

e. The Appellants, within sixty (60) days from February 4, 1992, shall cause the area designated as the "Exception Area" on Appellant's Exhibit No. 1, be cleaned and all debris

which is not equipment, material and supplies used in the operation of Appellant's masonry contracting business, removed.

f. There shall be no additional intensification of the nonconforming use area other than what is presently in existence and established by witnesses testifying at the hearing.

No other parties having appeared before the Board of Appeals raising objections to the proposed stipulation and agreement,

IT IS THEREFORE THIS ____ DAY OF _____, 1992, By the County Board of Appeals of Baltimore County;

ORDERED, the area consisting of a 10' x 200' strip located in the front of 611 and 613 Weir Lane and a 10' x 80' strip to the rear of 613 Weir Lane, adjacent to the property owned by Susan Adams, both located in Baltimore County, Maryland, and labeled as "Exception Area" on Appellant's Exhibit Nos. 1 and 2, are hereby granted nonconforming use status pursuant to Section 104 - Nonconforming Uses, Baltimore County Zoning Regulations; and it is further

ORDERED, there shall be no additional intensification of the nonconforming use areas other than what is presently in existence on said properties and established by witnesses testifying at the hearing; and it is further

ORDERED, that the provisions contained in the foregoing

Stipulation are incorporated into this Order and made a part hereof.

Michael B. Sauer
Acting Chairman

S. Diane Levero

John G. Disney

Approved as to content:

Michael H. Weir
Michael H. Weir, Sr., Appellant
Clara Weir, Appellant
Michael H. Weir, Jr., Appellant
Barbara A. Weir
Barbara Weir, Appellant
Mary E. Gephardt
Attorney for Appellants

Carl D. Snell, Protestant
Joy Snell, Protestant
Terry Snell, Protestant

MICHAEL H. WEIR and
CLARA K. WEIR, his wife
Petitioners
and
MICHAEL HOWARD WEIR, JR. and
BARBARA ANN WEIR, his wife
Petitioners

* BALTIMORE COUNTY
* ZONING COMMISSIONER
* Case Nos. 91-349-SPH,
91-350-SPH
* Item Nos. 335 and 336

MEMORANDUM OF LAW

Petitioners, Michael H. Weir and Clara K. Weir, his wife and Michael Howard Weir, Jr. and Barbara Ann Weir, his wife, et al., by Mary E. Gephardt, their Attorney, submits this Memorandum of Law.

STATEMENT OF FACTS

On or about November 18, 1952 Michael H. Weir and Clara K. Weir, his wife purchased a parcel of land situate in Baltimore County, Maryland, fronting 296.45' on Cape May Road, with a depth of approximately 562.18', from Frank E. Helmer and Amy G. Helmer, his wife. Since the purchase of said property, the Petitioner, Michael H. Weir has continuously and uninterruptedly used the property as a residence and commercially for the operation of a masonry contracting business known now as Mike Weir & Sons.

Subsequent to purchasing the property Michael H. Weir conveyed many parcels out, including but not limited to that parcel adjacent to his home conveyed to his son and daughter-in-law, Michael Howard Weir and Barbara Ann Weir, his wife, by deed recorded among the Land Records of Baltimore County in Liber S.M. No. 7639, folio 767. Presently Michael H. Weir and Clara K. Weir, his wife own 1.8729 acres, more or less which is now known as 611 Weir Lane. The Petitioner, Michael Howard Weir, Jr. and Barbara Ann Weir, his wife, own 1.8541 acres, more or less, known as 613 Weir Lane.

Pursuant to a zoning violation filed against the property located at 611 Weir Lane, Case No. 91-186, the Petitioners filed Petitions for a Special Hearing for approval of a non conforming residential and commercial use on the properties known as 611 Weir Lane and 613 Weir Lane, Baltimore County, Maryland. A joint hearing of both Petitions was heard on May 3, 1991 before J. Robert Haines, Zoning Commissioner.

STATEMENT OF LAW

The first set of zoning regulations were adopted by the County Commissioners of Baltimore County on January 2, 1945. In the original regulations a provision was made for a non-

CAPE MAY ROAD

ARMSTRONG RD.

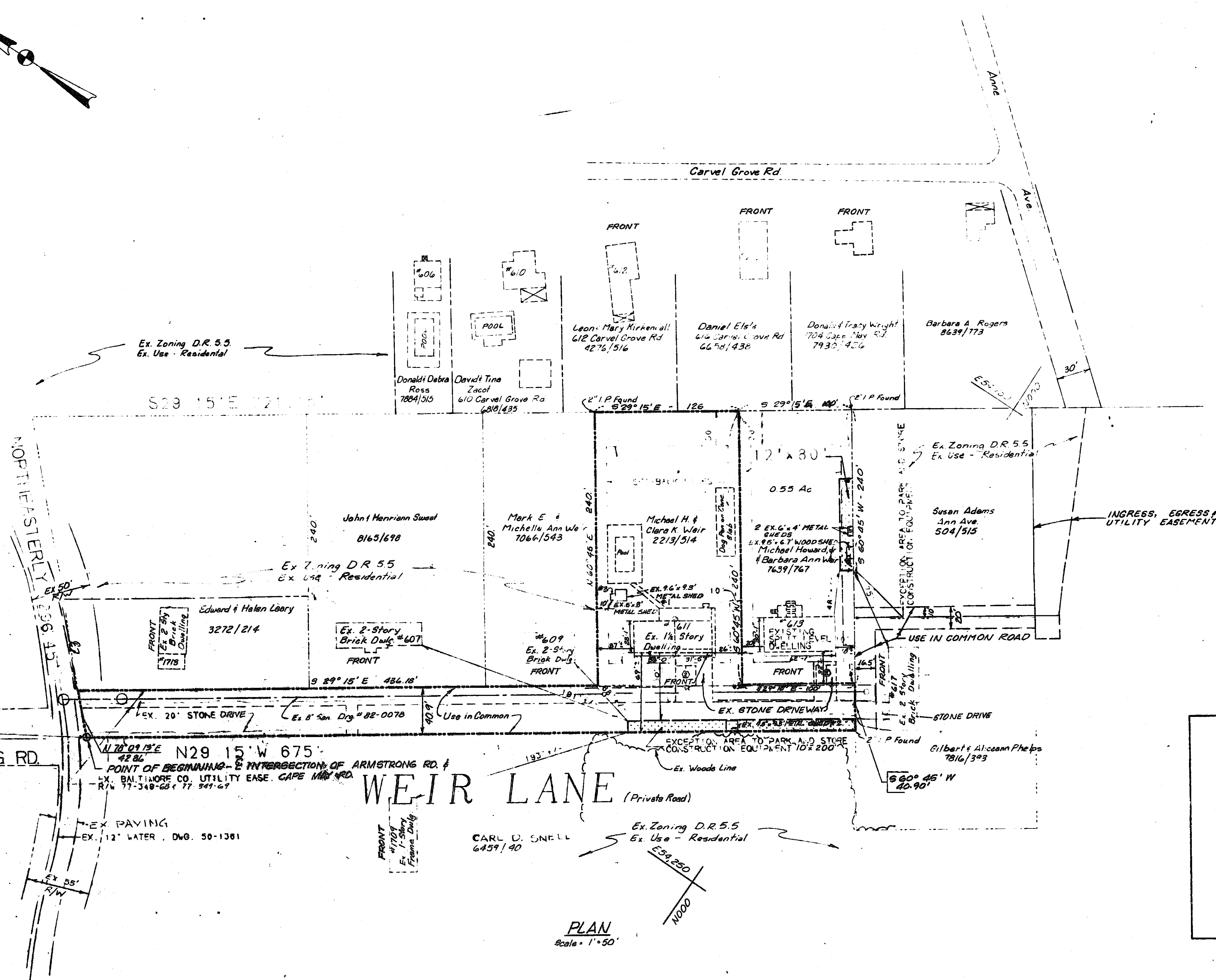
NORTH EASTERLY 336.45'

N29°15'W 675'
POINT OF BEGINNING - INTERSECTION OF ARMSTRONG RD. & WEIR LANE
EX. BALTIMORE CO. UTILITY EASE. CAPE MAY RD.
R/W 77-349-65 & 77-349-67

WEIR LANE (Private Road)

CARL D. SNELL
6459/90

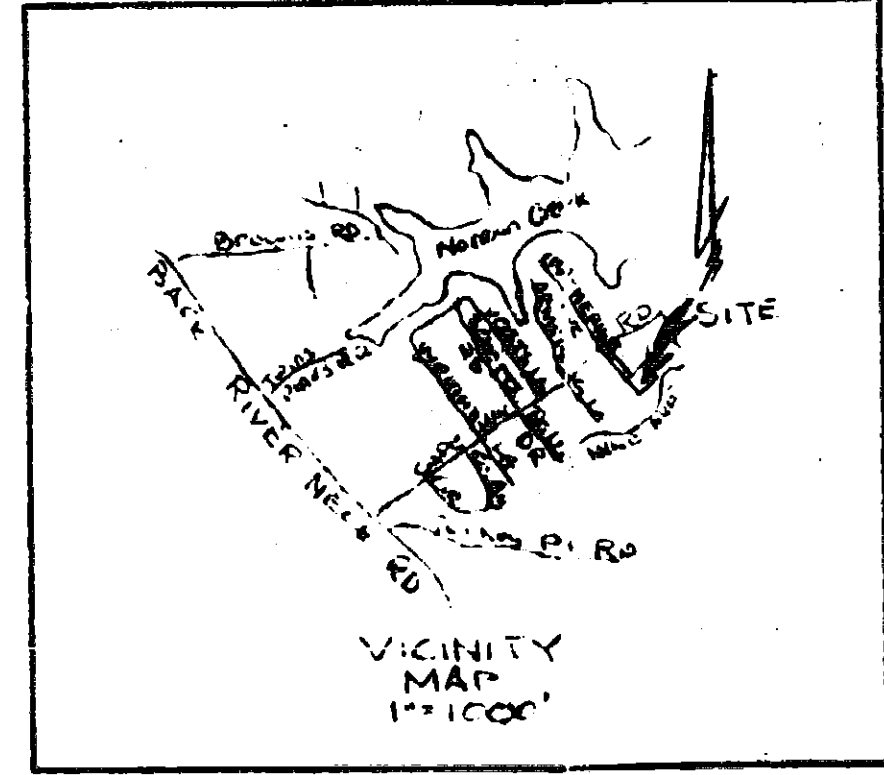
PLAN
Scale - 1" = 50'



- NOTES**
- DEED REF. G.L.B. 2213-514
 - PROPERTY ZONED DR 5.5
 - EXISTING USE - RESIDENTIAL & COMMERCIAL
 - PROPOSED USE - RESIDENTIAL & COMMERCIAL
 - GROSS AREA = 1.9220 AC. NET AREA 1.8032 AC.
 - ELECTION DISTRICT - 15TH
 - COUNCILMANIC DISTRICT - 5TH
 - OWNERS: MICHAEL H. SR. & CLARA K. WEIR &
 - BOUNDARY SHOWN HEREON WAS COMPILED FROM DEEDS OF RECORD
 - SITE IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA AND IS CLASSIFIED BY LAND USE AS LIMITED DEVELOPMENT AREA (LDA)
 - PARKING
REQUIRED - 2 P.S. PER DWELLING
EXISTING - 2 P.S. PER DWELLING
PROPOSED - 2 P.S. PER DWELLING
② = DENOTES NO. PARKING SPACES

LOT USAGE:

① Residential	= 1890 SF
② Storage Shed #1	= 67.8 SF
③ Storage Shed #2	= 29.4 SF
④ Storage Shed #3	= 15.0 SF
Storage Sheds Total	112.2 SF
⑤ Recreation (Pool)	= 1294 SF
⑥ Dog Run (Unleashed)	= 450 SF



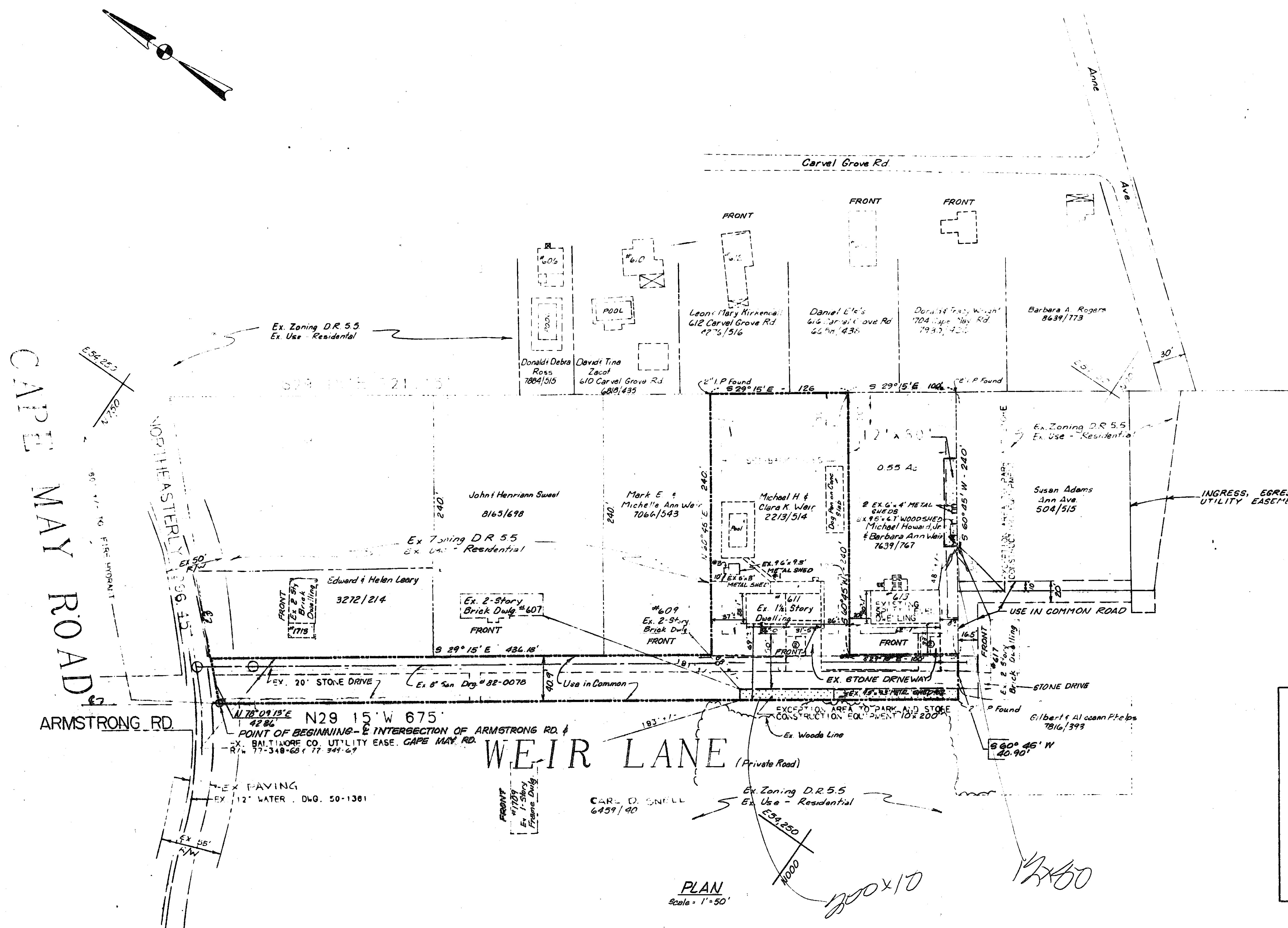
PETITIONER'S EXHIBIT A

91-349-SPH

PLAN TO ACCOMPANY SPECIAL HEARING FOR A NON-CONFORMING RESIDENTIAL AND COMMERCIAL USE ON THE PROPERTY KNOWN AS 611 WEIR LANE 15TH ELECTION DISTRICT, BALTIMORE COUNTY, MD

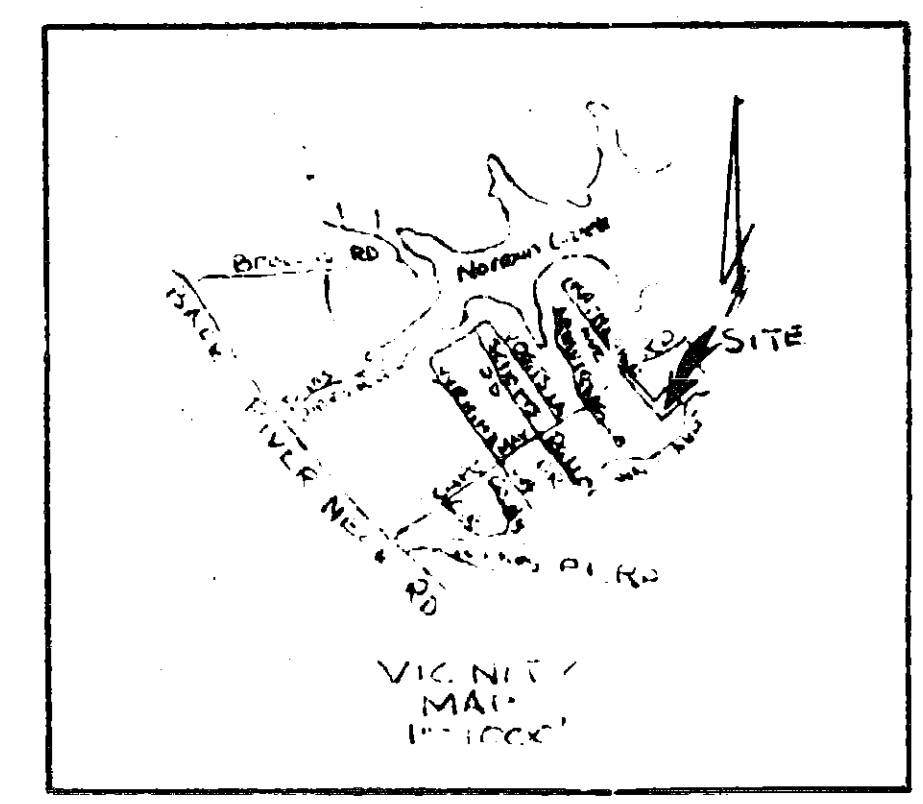
ELECTION DISTRICT 15	COUNCILMANIC DISTRICT 5
SCALE 1" = 50'	JOB ORDER NO. 90067
DATE 12-8-88	3/1/91

WILLIAM M. MATTHEWS SHEET 1 OF 1

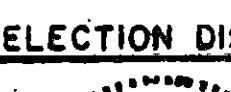


- NOTES
1. DEED REF. G.L.B. 2213-514
 2. PROPERTY ZONED: R 5 S
 3. EXISTING USE = RESIDENTIAL & COMMERCIAL
 4. PROPOSED USE = RESIDENTIAL & COMMERCIAL
 5. GROSS AREA = 1.9220 AC. NET AREA 1.9032 AC.
 6. ELECTION DISTRICT = 15TH
 7. COUNCILMANIC DISTRICT = 5TH
 8. OWNERS: MICHAEL H., SR. & CLARA K. WEIR &
 9. BOUNDARY SHEEN HERRON WAS COMPILED FROM DEEDS OF RECORD.
 10. SITE IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREAS AND IS CLASSIFIED BY LAND USE AS LIMITED DEVELOPMENT AREA (LDA)
 11. PARKING
REQUIRED : 2 P.S. PER DWELLING
EXISTING : 2 P.S. PER DWELLING
PROPOSED : 2 P.S. PER DWELLING
② = REMOTES NO. PARKING SPACES

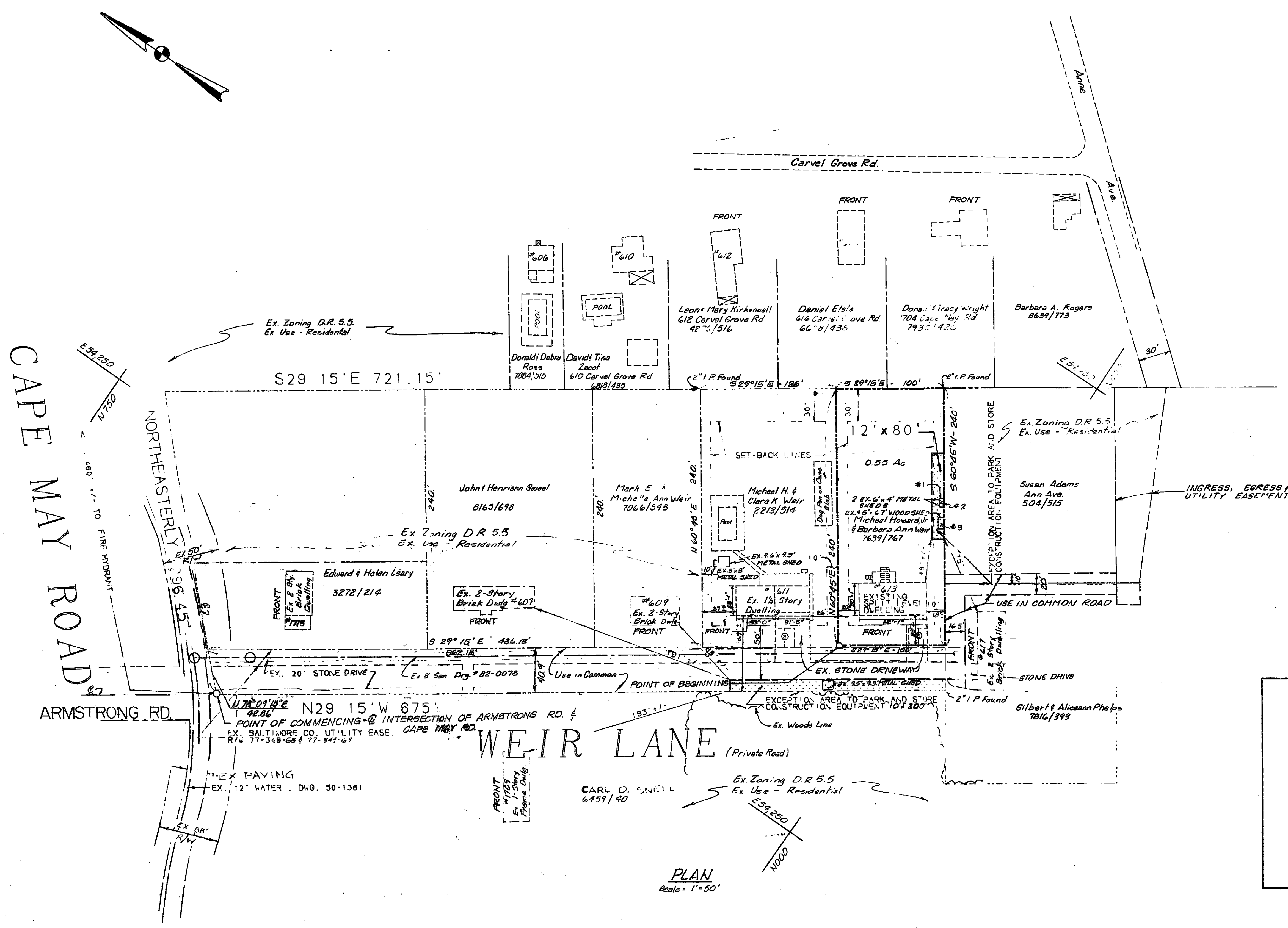
LOT	USAGE:		
①	Residential	=	1890 S.F.
②	Storage Shed #1	=	87.5 S.F.
	" " #2	=	88.4 S.F.
	" " #3	=	15.0 S.F.
	Storage Sheds Total		192.7 S.F.
③	Recreation (Pool)	=	1890 S.F.
④	Dog Pen (Unused)	=	960 S.F.



PLAN TO ACCOMPANY SPECIAL HEARING
FOR A
NON-CONFORMING RESIDENTIAL AND
COMMERCIAL USE ON THE PROPERTY KNOWN
AS 611 WEIR LANE
75 TH ELECTION DISTRICT, BALTIMORE COUNTY, MD

ELECTION DISTRICT 15		COUNCILMANIC DISTRICT 5	
	1	SCALE	
		1" = 50'	
		JOB ORDER NO.	
		90067	
DATE		12-5-90	
WILLIAM N. BAPTIST, JR.		3/1/91	
SHEET 1 OF 1			

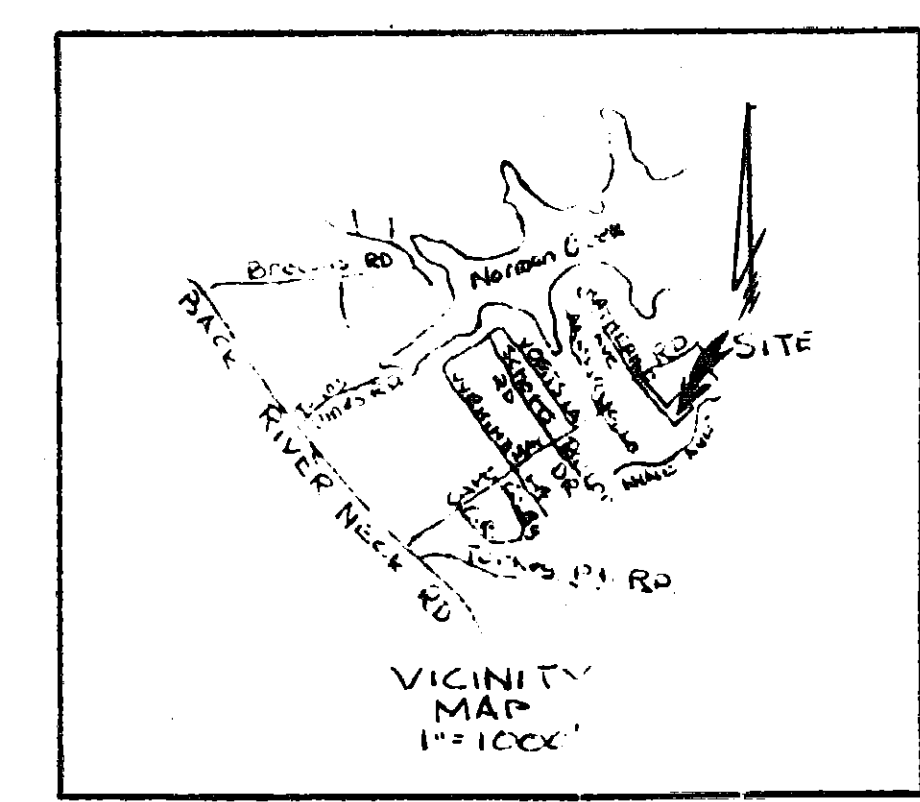
Petitioners Exhibit



- NOTES**
1. DEED REF. G.L.B. S.M. 7639-767
 2. PROPERTY ZONED; DR 5.5
 3. EXISTING USE = RESIDENTIAL & COMMERCIAL
 4. PROPOSED USE = RESIDENTIAL & COMMERCIAL
 5. GROSS AREA = 0.5510 Ac. NET AREA 0.5510 Ac.
 6. ELECTION DISTRICT = 15TH
 7. COUNCILMANIC DISTRICT = 5TH
 8. OWNER: MICHAEL H., JR. & BARBARA ANN WEIR
 9. BOUNDARY SHOWN HEREON WAS COMPILED FROM DEEDS OF RECORD.
 10. SITE IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREAS AND IS CLASSIFIED BY LAND USE AS LIMITED DEVELOPMENT AREA (LDA)
 11. **PARKING**
REQUIRED : 2 P.S. PER DWELLING
EXISTING : 2 P.S. PER DWELLING
PROPOSED : 2 P.S. PER DWELLING
② = DENOTES NO. PARKING SPACES

LOT USAGE:

① Residential	=	1860 S.F.
② Storage Shed #1	=	24 S.F.
" #2	=	24 S.F.
" #3	=	63.7 S.F.
Storage Shed Total	=	111.7 S.F.



PLAN TO ACCOMPANY SPECIAL HEARING
FOR A
NON-CONFORMING RESIDENTIAL AND
COMMERCIAL USE ON THE PROPERTY KNOWN
AS 613 WEIR LANE
15TH ELECTION DISTRICT, BALTIMORE COUNTY, MD

ELECTION DISTRICT 15 COUNCILMANIC DISTRICT 5

SCALE 1" = 50'

JOB ORDER NO. 1

DATE 8/1/83

SHEET 1 OF 1

Peltonius E. Phelps
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conforming use. The provision stated, "A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such non-conforming use to a different non-conforming use or any discontinuance of such non-conforming use for a period of one year ... the right to continue to resume such non-conforming use may be extended or enlarged more than once again the area of the land used in the original non-conforming use." McKenry v. Baltimore County, 39 Md. App. 257, 385 A.2d 96 (1978).

On or about March 30, 1955 a new set of comprehensive zoning regulations were adopted by the County Commissioners. Section 104 deals with non-conforming uses and provides: "A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever...the right to continue or resume such non-conforming use shall terminate." Id. at 98.

The burden of proving a non-conforming use is on the claimant of the use. The claimant of the use must establish that at the time of the passage of the prohibiting zoning ordinance the use existed. Calhoun vs. County Board of Appeals of Baltimore County, 262 Md. 265, 277 A.2d 589, (1971). To prove the existence of a non-conforming use on January 2, 1945, the date the first zoning regulations were adopted, Petitioner can show that the use was known to the neighbors at the time of the passage of the prohibiting zoning ordinance. Therefore Mr. Weir, et al, has the burden of proving the use as now claimed existed on January 2, 1945. Feldstein vs. LaVale Zoning Board, 246 Md. 204, 227 A.2d 731 (1967).

After establishing a lawful non-conforming use existed on January 2, 1945, the second test is an evaluation of the current activity to determine if it is within the scope of the non-conforming use. The following factors should be considered in that evaluation:

- (1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature and kind;
- (3) does the current use have a substantially different effect upon the neighborhood;
- (4) is the current use a "drastic enlargement or

extension" of the original non-conforming use. McKenry

Prior to adoption and approval of the zoning regulations by the County Commissioners on January 2, 1945, there were no zoning regulations in Baltimore County. Property owners, until that date were privileged to use their property for any lawful purpose. Amersinn v. Korkas, 71 A.2d 865 (1950). If the property was used for a business purpose and thereafter the neighborhood is zoned residential, to apply the regulations retroactively to the property would be confiscation of the property, therefore a nonconforming use is a vested right and entitled to constitutional protection. Id. at 869.

ARGUMENT

Petitioners presented at a hearing before the Zoning Commissioner for Baltimore County testimony to the effect that Michael H. Weir had been a resident of the community since 1943 when he moved with his mother to a home on Anne Avenue located two streets from the subject property. Further he stated said property had been used by Frank E. Helmer for the storage of materials and equipment used in the construction of homes fronting on Carvel Grove Road. Those homes were adjacent to the subject property enjoying the non-conforming use.

Testimony was presented by Michael H. Weir that the property was used by Mr. Helmer for commercial purposes in the building of homes and home improvements at the time he purchased the property. In addition, he testified he continued to use said property continuously and uninterruptedly until the date of this hearing for the storage of materials and equipment used in the masonry business owned and operated by himself and his sons.

Petitioners further presented supporting affidavits under seal by residents in the community prior to January 2, 1945 to the effect that the property had been used by Mr. Helmer since the early 1940's for the storage and operation of this construction business and later by Petitioners in the operation of their business.

Persons objecting to the Petition for approval of a Non-Conforming Use presented testimony concerning the business carried on the property since they moved into the community. It was undisputed that Mr. Weir has always operated a business on the property, which operation has always been to the rear of his home and around the perimeter of the property. After conveying a parcel to his son, Michael Howard Weir, Jr., the Petitioners continued to store materials and supplies around the perimeter of the properties.

Mr. Weir presented testimony to the effect that his business had dramatically decreased since he acquired the property and in

fact at one point in time he had employed approximately 28 persons at this location.

Opposition to the proposed non-conforming use basically centered around a property line dispute, in fact, Carl Snell, the main opposing witness testified that the materials and equipment stored by Petitioner, Michael H. Weir, in the front of 613 Weir Lane on land owned by Michael H. Weir was at one point in time considerably larger.

Based on the testimony and affidavits presented, Petitioners have met their burden of proof in showing that the property has been used continuously and without interruption since prior to the adoption of zoning in Baltimore County on January 2, 1945.

The second area of evaluation after establishing Petitioners have operated their business since January 2, 1945 require consideration of the following factors:

- (1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature and kind;
- (3) does the current use have a substantially different effect upon the neighborhood;
- (4) is the current use a "drastic enlargement or extension" of the original non-conforming use.

The current use of the property is quite similar to the nature and purpose of the original non-conforming use. In the early 1940's the property was used for the storage of materials and equipment for a construction business. The business operated on the property by Petitioners is that of a masonry contracting business. Their operation includes the laying of brick, in many instances the laying of a foundation for homes. This is not different in character, nature or kind, merely a different manner of utilizing the original non-conforming use.

The effect upon the community is no different. The community is basically a rural residential area, surrounded by homes and woods. The properties are located within the Chesapeake Bay Critical Area. Petitioners testified that the employees, Michael H. Weir and his sons, are the owners of the business and that they would be entering and exiting the property whether going to another place of employment or to a site in pursuit of their trade. Supplies and materials used in the business are delivered to job sites. Therefore, there is no

additional traffic to the property as a result of the business.

Occasional seasonal employees are instructed to report direct to the job sight. The business is continued to enable Michael H. Weir and his sons, many of which are employed by the Fire Department, to supplement their incomes.

There is no additional lighting provided on the property. The homes surrounding 611 Weir Lane is owned by children of Michael H. Weir. The only trucks on the property are those which are used and owned personally by the Petitioners as family vehicles and are pickup trucks. The trucks do not display any form of advertisement and there is no advertisement or signs posted on the premises.

The closest point between Petitioner's non-conforming use at 611 Weir Lane and the nearest public road is 475', which road is known as Cape May Road. The nearest home belonging to a non-family member is approximately 191' feet from the subject area.

The properties which are the subject the hearing have been continuously and uninterruptedly used as a non-conforming use prior to the adoption of zoning regulations in Baltimore County.

Wherefore, for the reasons stated above, Petitioners respectfully request this Zoning Commissioner to grant a non-conforming use for the subject property as outlined on Plats submitted into evidence at the hearing.

Respectfully,

Mary E. Gephardt
809 Eastern Boulevard
Baltimore, Maryland 21221
(301)687-2299
Attorney for Petitioners

I hereby certify that on this 10 day of May, 1991, a copy of the foregoing Memorandum of Law was mailed postage prepaid to William Hesson, Jr., Esquire, Suite 700, Court Towers, 210 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Carl Snell.

Mary E. Gephardt
Attorney at Law

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NE/S Weir Lane at intersection * ZONING COMMISSIONER
with Cape May Road *
611 Weir Lane * OF BALTIMORE COUNTY
15th Election District *
5th Councilmanic District * CASE # 91-349-SPH
Michael H. Weir, Sr., et ux *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request, pursuant to the Petition for Special Hearing, approval of a nonconforming residential and commercial use of the property known as 611 Weir Lane, as more particularly described on Petitioner's Exhibit A. This case is the companion case to 91-350-SPH.

The Petitioners appeared, testified and were represented by Mary E. Gephardt, Esquire. Also appearing on behalf of the Petitioners were Barbara W. Weir, Aliceann Phelps, Michele Weir, Mark Weir and Michael H. Weir, Jr. Appearing and testifying on behalf of the Petitioners were William Bafitis, a Professional Engineer, and Alexander Page. Appearing and testifying as Protestants, and represented by William M. Hesson, Jr., Esquire, were Carl D. Snell, Sr., Carl D. Snell, Jr., John G. Sweet III and Terry Snell. Appearing as Protestants were Joy E. Snell and Anita Luber.

Testimony indicated that the subject property, known as 611 Weir Lane consists of 1.3220 acres +/-, zoned D.R.5.5, is currently improved with a single family dwelling, accessory pool and dog pen, as indicated on Petitioner's Exhibit A. Said property is also located within the Chesapeake Bay Critical Area.

Michael Weir, Sr., testified that he has been a masonry contractor

since approximately 1948 and acquired the subject property in 1952. He testified that he currently operates his business with the assistance of his son and resides on the adjoining property known as 613 Weir Lane. Testimony indicated that Mr. Weir, Sr., is a Maryland Delegate and his son, Michael is a Fireman. The Petitioner testified that they operate the masonry business in their spare time when not working their full time jobs.

Testimony indicated that the Weirs store a substantial amount of equipment and supplies, pursuant to the subject masonry business, on their residential property, as indicated by the pictorial evidence in companion case file No. 91-350-SPH. Mr. Weir indicated that if the requested relief is granted, he would agree to screen that portion of his property where the equipment and supplies are stored and that, in his opinion, the granting of the requested relief would create no detriment to the surrounding homeowners.

Mr. Alexander Page indicated that he resides at 844 Carmel Grove Road and testified that he had worked with Mr. Weir's masonry business during the years 1948-1949. He testified that it is his recollection that Mr. Weir has always stored masonry equipment and supplies on the subject property.

Mr. William Bafitis, Professional Engineer, generally described the layout of the subject property and stated that, in his opinion, the granting of the subject relief would create no detriment to the surrounding community.

Mr. Terry Snell testified that during the years 1960 through 1973, he lived on his father's property, Carl D. Snell, which is adjacent to the subject properties, as indicated on Petitioner's Exhibit A. Mr. Snell testified that he is purchasing that portion of his father's property that is immediately adjacent to the construction equipment and supplies on the Weir property. Mr. Snell indicated that, in his opinion, said equipment and

supplies would be an eyesore once he builds his home and testified that he opposes the granting of the requested relief.

Mr. Carl Snell testified that he has lived in this community since 1949 and, that he has personal knowledge that no masonry equipment or supplies were stored on the subject property prior to 1952. Mr. Snell indicated that he concurred with his son in that the storage of the subject equipment and supplies are an eyesore in this residential community.

Mr. John G. Sweet, III, essentially concurred with the testimony of Terry and Carl Snell and indicated that he was concerned that the granting of the requested relief would lead to a detrimental impact on the market values of the residential properties in this community.

As with all nonconforming use cases, the first task is to determine what lawful nonconforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

Clearly, the Petitioner did not establish the subject nonconforming use prior to the effective date, namely, January 2, 1945. Mr. Weir testified that he did not even own the property until 1952 and Protestants' testimony confirmed that the subject masonry equipment and supplies did not appear on the property until sometime in 1952.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKenry v. Baltimore County, Md., 39 Md.App.257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

- (a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;
- (b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;
- (c) Does the current use have a substantially different effect upon the neighborhood;
- (d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

Clearly, based on the above, the Petitioner did not establish the subject nonconforming use prior to the effective date of the zoning regulations, namely, January 2, 1945. Therefore, the requested relief must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5th day of May, 1991 that the Petition for Special Hearing for approval of a nonconforming residential and commercial use of the property known as 611 Weir Lane, in accordance with Petitioner's Exhibit A, is hereby DENIED; and,

ORDER RECEIVED FOR FILING
Date 5/10/91
By M. D. 212

ORDER RECEIVED FOR FILING
Date 5/10/91
By M. D. 212

ORDER RECEIVED FOR FILING
Date 5/10/91
By M. D. 212

ORDER RECEIVED FOR FILING
Date 5/10/91
By M. D. 212

IT IS FURTHER ORDERED that the Petitioner shall remove all equipment and material from the property related to the subject masonry business on or before December 15, 1992.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

JRH:mmm
cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 3/11/91
By [Signature]

-5-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

June 3, 1991

Mary E. Gephardt
Attorney at Law
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Hearing
Michael Howard Weir, Sr., et ux, Petitioners
Case #91-349-SPH

Dear Ms. Gephardt:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
att.
cc: Peoples Counsel
cc: Mr. and Mrs. Michael Howard Weir, Sr.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 4/11/91
Posted for: Michael H. Weir, Sr.
Petitioner: Michael H. Weir, Sr., et ux, Petitioners
Location of property: 611 Weir Lane, 15th Election District, Baltimore County, Md.
Location of Sign: 611 Weir Lane, 15th Election District, Baltimore County, Md.
Remarks: See Petition for Special Hearing, Case #91-349-SPH
Posted by: [Signature] Date of return: 4/11/91
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 4/11/91
Posted for: Michael H. Weir, Sr.
Petitioner: Michael H. Weir, Sr., et ux, Petitioners
Location of property: 611 Weir Lane, 15th Election District, Baltimore County, Md.
Location of Sign: 611 Weir Lane, 15th Election District, Baltimore County, Md.
Remarks: See Petition for Special Hearing, Case #91-349-SPH
Posted by: [Signature] Date of return: 4/11/91
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 4/11/91
Posted for: Michael H. Weir, Sr.
Petitioner: Michael H. Weir, Sr., et ux, Petitioners
Location of property: 611 Weir Lane, 15th Election District, Baltimore County, Md.
Location of Sign: 611 Weir Lane, 15th Election District, Baltimore County, Md.
Remarks: See Petition for Special Hearing, Case #91-349-SPH
Posted by: [Signature] Date of return: 4/11/91
Number of Signs: 1

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-349-SPH
NEC Weir Lane at Intersection with Cape May Road
611 Weir Lane
15th Election District - 8th Councilmanic
Petitioner(s): Michael H. Weir, et ux
HEARING: FRIDAY, MAY 3, 1991 AT 10:00 A.M.
Special Hearing: A nonconforming residential and commercial use on the property known as 611 Weir Lane.
J. Robert Haines
Zoning Commissioner of Baltimore County

The Times
Middle River, Md., April 5, 1991
This is to Certify, That the annexed
Case No 91-349
30 # 0111288
was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of One successive weeks before the 5th day of April, 1991
[Signature] Publisher.

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-349-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a nonconforming residential and commercial use on the property known as 611 Weir Lane.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: (301) 687-2299

Legal Owner(s):

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 20 day of March, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 5 day of May, 1991, at 10 o'clock A.M.

Filed 3/5/91 BY JLL
ANY TIME OR DAY
FOR HEARING
TO BE HEARD CONSECUTIVELY WITH
ITEM # 336
ECO-M-1
PER ATTORNEY REQUEST.

Zoning Commissioner of Baltimore County.

CRITICAL AREA
VIOLATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-349-SPH
NEC Weir Lane at Intersection with Cape May Road
611 Weir Lane
15th Election District
8th Councilmanic
Petitioner(s): Michael H. Weir, et ux
HEARING: FRIDAY, MAY 3, 1991 AT 10:00 A.M.

Special Hearing: A nonconforming residential and commercial use on the property known as 611 Weir Lane.

J. Robert Haines
Zoning Commissioner of Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4-5, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4-4, 1991.

THE JEFFERSONIAN,

S. Zake Olson
Publisher

\$ 37.52

Bafitis & Associates, Inc.

CRITICAL AREA

February 27, 1991

ZONING DESCRIPTION

for

1.3220 Acre

Weir Tract

15th Election District

Baltimore, County, Maryland

611 Weir Lane

Michael H., Sr. & Clara K. Weir, Owners

Beginning at a point on the centerline of Cape May Road which is at the intersection of Armstrong Lane and said Cape May Road. Thence the following courses and distances: N. 78° 08' 13" E., 42.86 feet; S. 29° 15' E., 436.18 feet; N. 60° 45' E., 240.00 feet; S. 29° 15' E., 126.00 feet; S. 60° 45' W., 240.00 feet; S. 29° 15' E., 100.00 feet; S. 60° 45' W., 40.90 feet; N. 29° 15' W., 675.00 feet to the place of beginning as recorded in Deed Liber 2213, Folio 514.



(Seal)
Md. Reg. No. 11641

William N. Bafitis, P.E.
William N. Bafitis, P.E.
President

Civil Engineers / Land Planners / Surveyors — 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2331

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

3/04/91

HR100539

PUBLIC HEARING FEES

UTY

PRICE

040 - SPECIAL HEARING (OTHER)

1

\$175.00

LAST NAME OF OWNER: WEIR

TOTAL: \$175.00

Please Make Checks Payable To: Baltimore County, 0009104AND3-05-91

\$175.00

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

91-349-SPH

Please Make Checks Payable To: Baltimore County, 0009104AND3-05-91

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account R 001 6151
Number

DATE 5/3/91

Public Hearing Fee
Posting Signs and Instructions

570.27

WEIR

Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

91-349

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 4/12/91

Michael H. Weir, et ux
611 Weir Lane
Baltimore, Maryland 21221

RE:

Case Number: 91-349-SPH
NE/S Weir Lane at intersection with Cape May Road
611 Weir Lane
15th Election District - 5th Councilmanic
Petitioner(s): Michael H. Weir, et ux
HEARING: FRIDAY, MAY 3, 1991 at 10:30 a.m.

Dear Petitioner(s):

Please be advised that \$ 78.27 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Mary E. Gephardt, Esq.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

March 18, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-349-SPH
NE/S Weir Lane at intersection with Cape May Road
611 Weir Lane
15th Election District - 5th Councilmanic
Petitioner(s): Michael H. Weir, et ux
HEARING: FRIDAY, MAY 3, 1991 at 10:30 a.m.

Special Hearing: A nonconforming residential and commercial use on the property known as 611 Weir Lane.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Michael H. Weir, et ux
Mary E. Gephardt, Esq.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

April 18, 1991

Mary E. Gephardt, Esquire
809 Eastern Blvd
Baltimore, MD 21221

RE: Item No. 335, Case No. 91-349-SPH
Petitioner: Michael H. Weir, et ux
Petition for Special Hearing

Dear Ms. Gephardt:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Michael H. Weir
611 Weir Lane
Baltimore, MD 21221

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 20th day of March, 1991.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:
Chairman,
Zoning Plans Advisory Committee

Petitioner: Michael H. Weir, et ux
Petitioner's Attorney: Mary E. Gephardt

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines Zoning Commissioner DATE: April 12, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Michael H. Weir, Item 335
Michael Howard Weir, Jr., Item 336

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm
ITEM335.336/ZAC1

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: April 3, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner

FROM: Rahoe J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: March 19, 1991

Dear Mr. Haines:

This bureau has no comments for items number 327, 334, 335, 336, 339, 342, 343 and 345.

Rahoe J. Famili
Rahoe J. Famili
Traffic Engineer II

RJF/lvd

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-1500

MARCH 26, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: MICHAEL H. WEIR
Location: #611 WEIR AVENUE
Item No.: 335 Zoning Agenda: MARCH 19, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] Noted and Approved: [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

received
3/27/91

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: March 14, 1991
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for March 19, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 327, 334, 335, 336, 338, 339 and 345.

For Item 337, a County Review Group Meeting may be required for these additions.

For Item 342, a County Review Group Meeting is required for this site.

For Item 343, the previous minor subdivision comments supplied for this site will apply.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines DATE: April 30, 1991
Zoning Commissioner

FROM: Mr. J. James Dieter, Director

SUBJECT: Petition for Zoning Variance - Case #91-350-SPH
Weir Jr. Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 613 Weir Lane. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Michael H. Weir, Jr.

APPLICANT PROPOSAL

The applicant has requested a Special Hearing for a nonconforming residential and commercial use on the property known as 613 Weir Lane.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

Memo to Mr. J. Robert Haines
April 30, 1991
Page 2

DEFINITIONS

COMAR 14.15.01.07 Grandfathering. After program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has been abandoned for more than one year or is otherwise restricted by existing local ordinances.

REGULATIONS AND FINDINGS

Regulation: "For the alteration of forest or developed woodlands as delineated on the January, 1986 Baltimore County Forest and Developed Woodlands aerial photographs:

(1) No more than 20% of the sum of all forest and developed woodland may be cleared, and this shall be replaced by afforestation on a 1:1 acreage basis. An additional 10% of the forest or developed woodland may be cleared provided in such case, however, that every acre of forest or developed woodland cleared shall be replaced by 1.5 acres of afforestation.

(2) Forest or developed woodland cleared in LDAs shall be replaced in LDAs, LDAs, R.C. 20, or R.C. 50 Zones. Forest or developed woodland removed in the R.C. 20 or R.C. 50 Zones shall be replaced only in R.C. 20 or R.C. 50 Zones.

(3) The forest or developed woodland cleared shall be replaced according to an approved forest establishment plan. If the configuration of the site precludes on-site replacement, it is the applicants responsibility to secure an off-site area suitable for afforestation and in compliance with d(1) and d(2) preceding. If an appropriate off-site area cannot be located or secured, the County will allow the applicant to pay a fee-in-lieu." <Baltimore County Code, Section 22-217 (c)>.

Finding: No development is proposed in conjunction with this variance request. Therefore, no disturbance of the property shall take place and all structures, if existing at the time of program approval and if not restricted by other local ordinances, are grandfathered and shall be allowed to remain. However, the area adjacent to the location of metal shed #2 and the exception area to park and store construction equipment is a designated forest. This tree line runs along the property line with the forest located on the adjacent property owned by Mr. Carl Snell. No trees may be cut or cleared within a designated forest without an approved forest establishment plan. It is recommended that the applicant place a fence along the tree line to assure that the trees remain undisturbed from the equipment that is being stored.

Memo to Mr. J. Robert Haines
April 30, 1991
Page 3

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above. This proposal does comply with Chesapeake Bay Critical Area Regulations, and is therefore approved. If there are any questions, please contact Mr. David C. Flowers at 887-2904.

J. James Dieter
J. James Dieter, Director

JJD:DCF:ju
Attachment

cc: The Honorable Vincent Gardina
The Honorable Donald Mason
Mr. Ronald B. Hickernell
Mrs. Janice B. Outen
Mr. Michael H. Weir, Jr.
Ms. Mary E. Gephardt

APPEAL

Petition for Special Hearing
NE/S Weir Lane, at intersection of Cape May Road
(611 Weir Lane)
15th Election District 5th Councilmanic District
MICHAEL H. WEIR, JR., ET UX - Petitioner
Case No. 91-349-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (Included with ZAC comments)

Petitioner's Exhibits: A. Plan to accompany Special Hearing

1-4 (both inclusive) Letters of support

Zoning Commissioner's Order dated June 5, 1991 (Denied)

Notice of Appeal received June 28, 1991 from Mary E. Gephardt,
Attorney on behalf of the Petitioner.

cc: Michael Weir and Barbara Weir, 611 Weir Lane, Balto., MD 21221

Mary Gephardt, Esquire, 809 Eastern Blvd., Balto., MD 21221

William Hesson, Jr., Esquire
210 W. Pennsylvania Avenue, Towson, MD 21204

William N. Bafitis, P.E. - Bafitis & Associates, Inc.
1249 Engleberth Road, Balto., MD 21221

Terry Snell, 7857 Marsiak Drive, Elkridge, MD 21227

John G. Sweet, III, 607 Weir Lane, Balto., MD 21221

Carl and Joy Snell, 1709 Cape May Road, Balto., MD 21221

Anita Luber, 1333 Willow Road, Balto., MD 21222

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Chief Deputy County Attorney
Public Services

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-4554

August 16, 1991

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
NE/S Weir Lane, at intersection of Cape May Road
(611 Weir Lane)
15th Election District, 5th Councilmanic District
MICHAEL H. WEIR, JR. ET UX - Petitioner
Case No. 91-349-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on June 28, 1991 by Mary E. Gephardt, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Michael Weir and Barbara Weir, 611 Weir Lane, Balto., MD 21221

Mary Gephardt, Esquire, 809 Eastern Blvd., Balto., MD 21221

William Hesson, Jr., Esquire
210 W. Pennsylvania Avenue, Towson, MD 21204

William N. Bafitis, P.E. - Bafitis & Associates, Inc.
1249 Engleberth Road, Balto., MD 21221

Appeal Cover Letter - Case No. 91-349-SPH
MICHAEL H. WEIR, JR., ET UX - Petitioner
August 16, 1991
Page 2

Terry Snell, 7857 Marsiak Drive, Elkridge, MD 21227

John G. Sweet, III, 607 Weir Lane, Balto., MD 21221

Carl and Joy Snell, 1709 Cape May Road, Balto., MD 21221

Anita Luber, 1333 Willow Road, Balto., MD 21222

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 23, 1992

Mary E. Gephardt, Esquire
Lauenstein & Lauenstein
809 Eastern Boulevard
Essex, Maryland 21221

Re: Case Nos. 91-349-SPH (Michael H. Weir, Sr., et ux)
and 91-350-SPH (Michael H. Weir, Jr., et ux)

Dear Ms. Gephardt:

Enclosed please find a copy of the Stipulation as to Facts and
Order issued this date by the County Board of Appeals of Baltimore
County in the subject matter.

Sincerely,

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Michael H. Weir, Sr.
Mr. and Mrs. Michael H. Weir, Jr.
William N. Bafitis, P.E.
Terry Snell
Mr. John G. Sweet, III
Mr. and Mrs. Carl Snell
Ms. Anita Luber
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director
Zoning Administration

Dear Sir,
 Michael H. Weir whose family lived on Ann Avenue bought the property where he now lives after he came home from the service. I helped him in negotiating the sale.
 The property had belonged to my brother Leo's father in law Frank Peltner.
 Both Frank and Leo did construction work and in fact built their own homes and one other on adjoining property that fronted on Carville Grove Rd. These houses were built in the early 1940s and finished during the war. During the construction of these houses and while doing other construction work they used the adjoining property behind their homes to store various equipment and material. This area they used for storage is now part of the Weir property.

PETITIONER'S EXHIBIT 2 91-349SPH
 State of Maryland, County of Baltimore, to wit:
 Before me a Notary Public for the State of Maryland, personally appeared A. V. Smithwick and swore that he is his act and deed.

My Commission Expires: 12/1/93
 Doreen E. McHenry
 Notary Public

PETITIONER'S EXHIBIT 2 91-349 SPH

To Whom It May Concern,
 Mike Weir Has been a good neighbor of mine for many years. His family moved several houses from me on Ann Avenue during World War II - After He came Home He bought the property where He now lives.
 He has always been involved in construction work and has always had pickup trucks and tools and equipment.
 How can what He has been doing for over forty years now be a problem to any neighbors?
 Both my former neighbor, Mr. Williams and I did "Handy-man" repair work such as now called "Home Improvement" long before that. Mr. Williams lived on the rear portion of what is now Weir family property.
 I have lived in my present address for over sixty years.

State of Maryland, Baltimore County, to wit:
 Before me a Notary Public for the State of Maryland, personally appeared Michael Weir, Sr. and stated that he is his act and deed.
 My Commission Expires: 12/1/93
 Doreen E. McHenry
 Notary Public

PETITIONER'S EXHIBIT 3 91-349 SPH

Dear Sir,
 My family bought a house from Mr. Weir on what is now called Weir Lane over 27 years ago.
 Unfortunately a personal problem necessitated my selling and moving away a year ago.
 Our two large families got along very well and were good neighbors.
 Having to move was regrettable after our long and good relationship.
 Years ago Mike and his brothers did a great deal of work and had a lot of associated activity. The volume of his work has been very much reduced.
 I can't imagine what complaint anyone could now have of this much reduced activity.

NOTARY PUBLIC
 Doreen E. McHenry
 Baltimore Co., MD

State of Maryland, County of Baltimore, to wit:
 Before me a Notary Public for the State of Maryland, personally appeared Helen S. Leary and stated that she is his act and deed.
 Doreen E. McHenry
 Notary Public

NOTARY PUBLIC
 Doreen E. McHenry
 Baltimore Co., MD

PETITIONER'S EXHIBIT 4

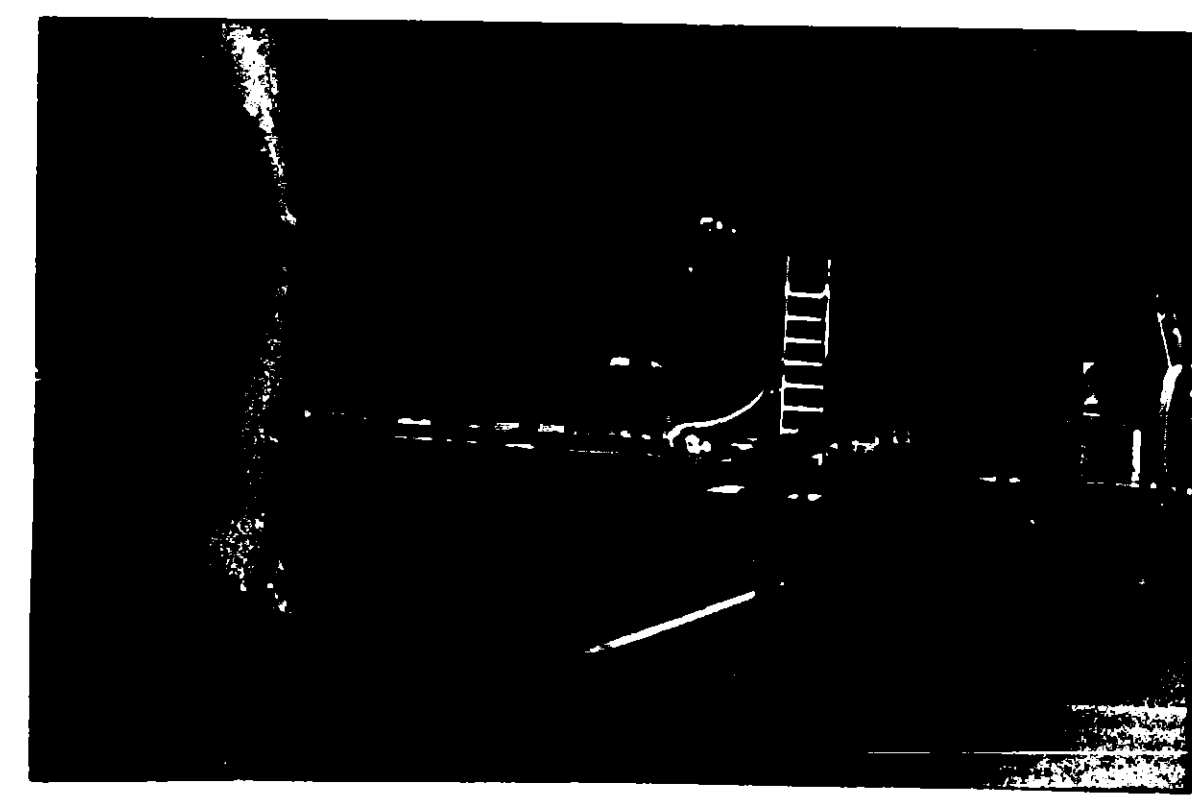
91-349 SPH

Photos
 91-349-SPH } Michael Weir
 91-350-SPH }

Petitioner's 9/1/8
 Protestants 2 & 3



VIEW OF 609 WEIR LANE FROM NEW CONCRETE DRIVE

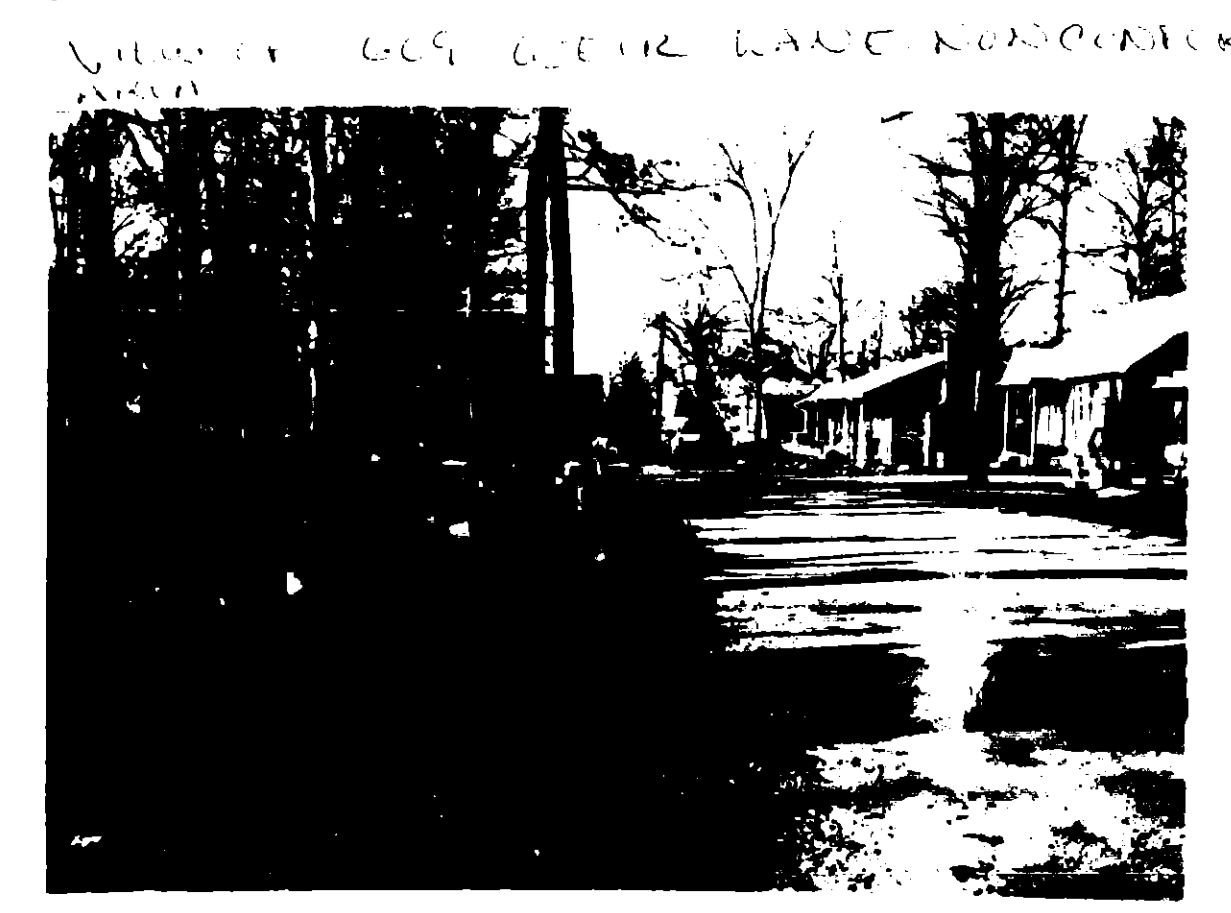


VIEW FROM FRONT OF 609 WEIR LANE LOOKING AT NEW CONCRETE DRIVE WITH WEIR LANE

VIEW FROM 609 WEIR LANE LOOKING AT NEW CONCRETE DRIVE WITH WEIR LANE



VIEW FROM 609 WEIR LANE LOOKING AT NEW CONCRETE DRIVE WITH WEIR LANE



Petitioner's Exhibit 5